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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1213th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1213.

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THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION
ORGANIZATIONAL AND OTHER MATTERS (continued)

The public part of the meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Review of the implementation of the Convention in States parties whose reports are overdue (continued)

Seychelles

1. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) summarized the previous periodic report of Seychelles (CERD/C/128/Add.3), which the Committee had considered at its 816th meeting in August 1988, without the presence of representatives of the State party. On that occasion, the Committee had considered that the fact that Seychelles had a multiracial society and that there had been no incidents relating to racial discrimination had not justified the absence of action to prevent discrimination, particularly legislation to give effect to the obligations incumbent on Seychelles under article 4 of the Convention. The Committee had also considered that articles 50 and 52 of the Criminal Code of Seychelles did not fully meet the requirements of article 4. It had asked the Government of Seychelles to furnish additional information on the positive aspects of the social integration process, bearing in mind the harmonious nature of the country's multinational society. It had stressed the need to ensure that relevant Seychelles legislation was fully in keeping with the provisions of the Convention, and articles 2-7 in particular.

2. Despite the reminders addressed to it, the Seychelles Government had not sent the Committee an additional report on the implementation of the Convention in Seychelles. The Committee should therefore invite the State party to carry out the general obligations deriving from article 9 of the Convention by submitting to it a full, updated report. In order to do so, the Government could, if necessary, have recourse to the advisory services of the Centre for Human Rights.

3. He reminded members that when the previous report had been considered in 1988, Mr. Aboul-Nasr had deemed it preferable, in certain cases, for the reports of States parties to be considered at Headquarters in New York, since some States, like Seychelles, had no permanent mission in Geneva.

4. The CHAIRMAN announced that the Committee had thus concluded its review of the implementation of the Convention in Seychelles.

Mongolia

5. Mr. SHAHI (Country Rapporteur) said that the dialogue between the Committee and Mongolia had been in abeyance since the submission of the ninth (CERD/C/149/Add.23) and tenth (CERD/C/172/Add.10) periodic reports of the State party in 1989. The members of the Committee had on that occasion been favourably impressed by how the Convention had been implemented in Mongolia.

6. He was basing his observations on the information provided by Mongolia in its sixth to tenth periodic reports, the pertinent summary records, the

United States Department of State report on human rights practices in Mongolia in 1995 and other reliable sources, so as to try to present the Committee with as useful and recent information as possible on the situation in Mongolia.

7. Whether the Convention had been fully incorporated into Mongolian domestic legislation had not been clearly established. The legislation of the former socialist system had strictly prohibited racial discrimination and racism, but it was not known how the situation had developed since the start of the transition to capitalism, which had possibly brought changes.

8. Mongolia had a population of only 2.3 million in a territory as large as the whole of Western Europe. According to the State party's successive reports, some 20 or 30 ethnic groups existed in Mongolia, including the Khalkhas (77 per cent), the Kazaks (5.9 per cent) and other groups of lesser importance. The various ethnic groups were apparently scattered over the whole country, except for the Kazaks settled in the east of the country, where they formed an administrative unit and spoke different Mongolian dialects. The language of education was Mongolian and the overall literacy rate 80 per cent. It seemed that the entire population, including the nomads, had eight years of secondary education.

9. There was little information on the implementation of article 2. With regard to the implementation of article 4, however, it would seem that the provisions of article 83 of the Constitution and article 53 of the Criminal Code of 1961 met the requirements of the Convention.

10. With reference to the implementation of article 5, it was not known whether land ownership was still essentially under a system of joint ownership or whether there had been any changes since the start of the process of transition to a market economy. Where freedom of conscience and religion was concerned, it seemed that the right to publish anti-religious propaganda was not offset by the right to publish propaganda in support of religious ideas, which would not be compatible with the provisions of article 5. The 1992 Constitution provided for the separation of Church and State and prohibited religious discrimination, Lamaism (Tibetan Buddhism) being the predominant religion.

11. Under the communist regime, the right to freedom of expression and the right to freedom of peaceful assembly and association could be practised provided that they were not harmful to the State system, public order or the rights of citizens. The situation in that regard seemed to have improved somewhat.

12. Foreigners residing in Mongolia on a permanent basis, including stateless persons, enjoyed the same civil rights as Mongolians, according to the authorities. It seemed, however, that the right to travel abroad was not unrestricted. The ethnic minorities were reportedly not subject to any restrictions regarding the exercise of the right to work and had free access to all sectors of economic activity. Their members apparently also had the right to medical care and social protection.

13. Where article 6 was concerned, he believed that parties which had suffered damage had the right to seek remedies, but he had no information on the established procedure. Similarly, he had little information on the implementation of article 7.

14. He quoted excerpts from the report of the United States Department of State on the human rights situation in Mongolia in 1995. According to that report, the Government of Mongolia generally respected human rights, although the security forces had occasionally ill-treated detainees. Mongolia was moving steadily from a highly-centralized communist system to a multiparty democracy. There had been no reports of political assassinations, although several prisoners had died in custody. The Constitution guaranteed the independence of the judiciary. The courts were independent and there was no evidence that they practised discrimination. The Constitution provided that the Government should not generally interfere in the private lives or beliefs of citizens and should respect freedom of speech and freedom of the press. The private and the official media presented both the opinions of the Government and those of the opposition. In accordance with the Constitution, the Government respected the rights of assembly and association, freedom of worship and freedom of movement. The Constitution guaranteed the organization of free periodic elections by means of a secret ballot, with universal suffrage. There were at present 12 registered political parties. Women had the right to participate in political life but were under-represented. A number of human rights groups operated freely. The 1992 Constitution stated that no person should be discriminated against on grounds of ethnic origin, language, race, age, sex, social origin or disability, and that men and women were equal in political, economic, social, cultural and family affairs. The Government exercised general supervision over the observance of those rights. There was no apparent discrimination in terms of access to education or remuneration. Trade unions were permitted, as was the right to strike. The law specifically prohibited forced or compulsory labour. The information requested on perestroika, which the delegation had promised to provide during the consideration of the ninth and tenth reports, had never materialized; since then the country had embarked on a process of transition towards a market economy.

15. The CHAIRMAN considered that the Committee had exceeded the mandate entrusted to it under the Convention during its previous consideration of Mongolia's reports.

16. Mr. de GOUTTES said that he shared the Chairman's opinion but would like to ask two questions. Did the Criminal Code as revised meet all the requirements of article 4 of the Convention? And was there any information on the cases of ill-treatment and malnutrition in labour rehabilitation establishments mentioned in the 1996 Amnesty International report?

17. Mr. SHAHI said that he had no information that would enable him to reply to those two questions.

18. The CHAIRMAN announced that the Committee had thus concluded its review of the implementation of the Convention in Mongolia.

Draft concluding observations concerning the fourth to thirteenth periodic reports of Swaziland (CERD/C/50/Misc.25, future CERD/C/304/Add.31, distributed at the meeting in English only)

Paragraph 1

19. The CHAIRMAN proposed that the end of the third sentence should be abbreviated to read: "... the overall situation in the country of the implementation of the Convention".

20. Paragraph 1, as orally amended, was adopted.

Paragraphs 2 and 3

21. Paragraphs 2 and 3 were adopted.

Paragraph 4

22. The CHAIRMAN proposed that the text should be replaced by the following: "The report of the State party does not provide sufficient information on the legal status of the Convention in domestic law."

23. Mr. CHIGOVERA suggested that the wording proposed by the Chairman could be made more specific by replacing "on the legal status of the Convention in domestic law" by "on the practical implementation of articles 2, 3 and 6". Paragraph 4 would thus supplement paragraph 5, which concerned the implementation of articles 4, 5 and 7 of the Convention.

24. Paragraph 4, as orally amended, was adopted.

Paragraph 5

25. The CHAIRMAN proposed that paragraph 5 should be amended by replacing, after "1962", the words "which was before the Convention came into force" by "prior to the Convention's coming into force", and that "in comparison with the definition contained in article 1.1 of the Convention" should be deleted following "discrimination based on race and colour".

26. Paragraph 5, as orally amended, was adopted.

Paragraphs 6 and 7

27. Paragraphs 6 and 7 were adopted.

Paragraph 8

28. Mr. SHERIFIS proposed that, for stylistic reasons, "the Government of Swaziland, if it so wishes, may" should be replaced by "the Government of Swaziland may wish to".

29. Paragraph 8, as orally amended, was adopted.

Paragraphs 9, 10 and 12

30. Paragraphs 9, 10 and 12 were adopted.

31. The draft concluding observations concerning the fourth to thirteenth periodic reports of Swaziland, as orally amended, were adopted.
Draft concluding observations concerning the review of the implementation of the Convention in Rwanda (CERD/C/50/Misc.27, distributed at the meeting, in English only)

Paragraph 1

32. Paragraph 1 was adopted.

Paragraph 2

33. Mr. CHIGOVERA proposed the deletion of the word "however".

34. Mr. SHERIFIS proposed that in the third line "the information" should be replaced by "the assurance given".

35. Paragraph 2, as orally amended, was adopted.

Paragraph 3

36. Paragraph 3 was adopted.

Paragraph 4

37. Mr. SHERIFIS proposed that, for stylistic reasons, "avail itself, if it judges it useful" should be replaced by "may wish to avail itself".

38. Paragraph 4, as orally amended, was adopted.

39. The draft concluding observations concerning the review of the implementation of the Convention in Rwanda, as orally amended, were adopted.

Draft concluding observations concerning the tenth to fourteenth periodic reports of Panama (CERD/C/50/Misc.26, future CERD/C/304/Add.32, distributed at the meeting, in English only)

Paragraphs 1 and 2

40. Paragraphs 1 and 2 were adopted.

Paragraph 3

41. Following an exchange of views in which Mr. Garvalov, Mr. Chigovera, Mr. Sherifis, Mr. Valencia Rodriguez, Mr. Yutzis and he himself took part, the CHAIRMAN proposed that the paragraph should read: "The Committee is aware that Panama is emerging from a period of serious political, social and

economic difficulties. The Committee noted that substantial disparities in wealth between different ethnic groups of the population tend to affect the implementation of the Convention in the State party."

42. Paragraph 3, as amended, was adopted.

Paragraph 4

43. Mr. SHERIFIS, referring to the human rights to be protected, proposed that "recognized by the Convention" should be replaced by "enumerated in the Convention".

44. Paragraph 4, as orally amended, was adopted.

Paragraph 5

45. Paragraph 5 was adopted.

Paragraph 6

46. Mr. CHIGOVERA proposed that the word "for" should be inserted before "several years" for grammatical reasons.

47. Paragraph 6, as orally amended, was adopted.

Paragraph 7

48. Paragraph 7 was adopted.

Paragraph 8

49. Mr. ABOUL-NASR considered that the Committee should not express concern at the fact that the Government of Panama had not establisned a body to coordinate the programmes and initiatives introduced by the State party to implement the provisions of the Convention. It had, in fact, taken various measures which the Committee had welcomed, in particular the appointment of an ombudsman and the establishment of the National Commission on Administrative Boundaries (CERD/C/299/Add.1, para. 5). In his opinion, the Committee should not criticize a particular State party for not establishing such a coordinating body.

50. Mr. VALENCIA RODRIGUEZ said that Mr. Ferrero Costa, the Special Rapporteur for Panama, had stressed that point since Panama had numerous human rights organizations. A body had therefore been necessary in order to coordinate their activities. Moreover, the delegation of Panama had itself recognized the need to establish such a body.

51. The CHAIRMAN considered it unnecessary to establish a coordination body specifically designated as such, whatever the coordinated activities were. It would thus be sufficient to delete the word "coordinating" from the paragraph in order to abbreviate the text.

52. Mr. SHERIFIS also considered that the fact that the Government of Panama had not established a specific coordinating body was not a subject of concern. The Committee should rather recommend the establishment of a body to facilitate the implementation of the Convention, bearing in mind its general recommendation XVII (42) concerning the establishment of national bodies to facilitate the implementation of the Convention. Paragraph 8 should therefore be deleted from section D, "Principal subjects of concern", and be transferred to section E, "Suggestions and recommendations".

53. Mr. ABOUL-NASR proposed the deletion of paragraph 8, since in section E it would duplicate paragraph 18.

54. Mr. GARVALOV agreed with that proposal.

55. Paragraph 8 was deleted.

Paragraph 9

56. Mr. CHIGOVERA suggested that the words "with concern" should be inserted after "It is noted" and that a corresponding recommendation should be included in section E, "Suggestions and recommendations". He also proposed that "though in some cases there were reports ..." should be replaced by "despite some reports ...".

57. Paragraph 9, as orally amended, was adopted.

Paragraph 10

58. The CHAIRMAN proposed that paragraph 10 should be adopted with the replacement of "or members" by "and members" in the second line.

59. It was so decided.

Paragraph 11

60. Mr. GARVALOV suggested that "satisfied" should be replaced by "complied with".

61. Paragraph 11, as orally amended, was adopted.

Paragraph 12

62. The CHAIRMAN proposed that paragraph 12 should be adopted with the replacement of "which" by "that" in the third line and the second "of" by "in" in the last line.

63. It was so decided.

Paragraph 13

64. Mr. SHAHI said that he would welcome a definition of the word "comarcas".

65. The CHAIRMAN suggested that the words "territorial districts of the indigenous people" should be placed in brackets after the term "comarcas" the first time it appeared (in paragraph 4). He also proposed that "other provinces" should be replaced by "the provinces".

66. It was so decided.

Paragraph 14

67. The CHAIRMAN proposed that the beginning of paragraph 14 should be amended to read: "It is noted with concern that the State party has presented information only on the right to work ...".

68. It was so decided.

Paragraph 15

69. The CHAIRMAN proposed that "had" should be replaced by "has".

70. It was so decided.

Paragraph 16

71. Paragraph 16 was adopted.

Paragraph 17

72. Mr. VALENCIA RODRIGUEZ suggested that in the last line "recognized by the Convention" should be replaced by "enumerated in the Convention".

73. Paragraph 17, as orally amended, was adopted.

Paragraph 18

74. Mr. ABOUL-NASR considered that States parties could not be asked to establish new mechanisms for every human rights instrument.

75. Mr. SHERIFIS reminded members that the Committee had adopted general recommendation XVII on that subject. He therefore suggested that the beginning of the paragraph should read: "The Committee recommends that the State party establish a national commission or other appropriate body to coordinate ...".

76. Mr. VALENCIA RODRIGUEZ pointed out that the delegation of Panama had said that several human rights bodies had been established in Panama and had acknowledged that one of those bodies should be responsible for coordinating all activities. A recommendation could therefore be made along those lines.

77. Ms. ZOU Deci considered that the paragraph was unnecessary, partly because the subject had already been touched on in paragraph 9 in the reference to appropriate governmental bodies and partly because she did not think it was for the Committee to give States detailed instructions as to what bodies they should establish.

78. Mr. GARVALOV shared Ms. Zou Deci's opinion.

79. Mr. de GOUTTES said he did not think that the paragraph should be simply deleted. He would prefer the Committee to recommend that the State party should designate an appropriate body to coordinate activities.

80. Mr. CHIGOVERA said that if the Committee's general recommendation XVII was still valid, it should be put into effect.

81. Mr. SHERIFIS proposed that paragraph 18 should read: "The Committee recommends that the State party designate an appropriate body to coordinate and monitor programmes and policies designed to implement the Convention, as envisaged in its general recommendation XVII adopted in 1993."

82. Paragraph 18, as orally amended, was adopted.

Paragraph 19

83. Paragraph 19 was adopted.

84. The CHAIRMAN proposed, at the suggestion of Mr. de GOUTTES, that paragraph 19 should be followed by a recommendation concerning the complaints made and judgements handed down in cases involving racial offences, in line with what had already been done with other States parties.

85. It was so decided.

Paragraph 20

86. Mr. ABOUL-NASR said he did not think that all the categories of persons for whom human rights training programmes were necessary should be listed. It was not magistrates who required such training, but rather police officers.

87. The CHAIRMAN observed that very often - in his own country, for example - judges, even at the highest level, had no training in human rights or, more particularly, in discrimination.

88. Mrs. SADIQ ALI, supported by Mr. de GOUTTES, considered that the list should be replaced by the term "law enforcement officials".

89. Mr. SHAHI pointed out that magistrates would then be excluded.

90. Mr. CHIGOVERA suggested indicating the main officials who would require training.

91. Mr. ABOUL-NASR said that in that case the Committee should start with Heads of State and Government.

92. Mr. YUTZIS, referring to the Committee's general recommendation XIII, proposed that the second sentence of paragraph 20 should read: "The Committee recommends the improvement of the training of law enforcement officials in the light of the Committee's general recommendation XIII."

93. Paragraph 20, as orally amended, was adopted.

Paragraph 21

94. Mr. ABOUL-NASR, referring to the second sentence, wondered why it mentioned the right to housing, but referred to health and social services, and education only in terms of access.

95. Mr. GARVALOV considered that the Committee could not require States parties to ensure "full enjoyment" of those rights.

96. Mr. YUTZIS, noting that housing, health, social services and education were rights set out in article 5 of the Convention, suggested that paragraph 21 should refer to the relevant subparagraphs of that article.

97. The CHAIRMAN proposed that the Committee should adopt the text of paragraph 21, replacing "recognized by the Convention" by "enumerated in the Convention" in the first sentence, and wording the end of the second sentence to read: "... the implementation of the rights enumerated in article 5 (e) (iii), (iv) and (v) for those specific groups."

98. It was so decided.

Paragraph 22

99. Mr. ABOUL-NASR asked whether it was true to say that the members of indigenous populations did not have the right to own property.

100. Mr. VALENCIA RODRIGUEZ recalled that Panama had stated in its periodic report that the right of members of the indigenous populations to own property was somewhat restricted in practice. It was therefore appropriate for the Committee to make a recommendation on the subject.

101. Paragraph 22 was adopted.

Paragraph 23

102. Paragraph 23 was adopted.

Paragraph 24

103. The CHAIRMAN proposed that "the means to have" should be replaced by "with".

104. It was so decided.

Paragraph 25

105. Paragraph 25 was adopted.

Paragraph 26

106. Mr. CHIGOVERA proposed that "be enjoyed" in the third line should be replaced by "are enjoyed".

107. Mr. VALENCIA RODRIGUEZ proposed that "recognized by the Convention" should be replaced by "enumerated in the Convention".

108. Paragraph 26, as amended, was adopted.

Paragraphs 27-29

109. Paragraphs 27-29 were adopted.

110. The draft concluding observations concerning the tenth to fourteenth periodic reports of Panama, as orally amended, were adopted.

Draft concluding observations concerning the review of the implementation of the Convention in Seychelles (CERD/C/50/Misc.29, distributed at the meeting in English only)

111. The draft concluding observations concerning the review of the implementation of the Convention in Seychelles were adopted.

Draft concluding observations concerning the review of the implementation of the Convention in Mongolia (CERD/C/50/Misc.28, distributed at the meeting in English only)

112. The draft concluding observations concerning the review of the implementation of the Convention in Mongolia were adopted.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 10)

113. The CHAIRMAN drew the attention of the members of the Committee to General Assembly resolution 51/81 entitled "Third Decade to Combat Racism and Racial Discrimination". He referred in particular to paragraph 10, which dealt with a subject already discussed by the Committee, namely, the dissemination of racist material on the Internet, and paragraph 17 concerning voluntary contributions to the Trust Fund for the Programme for the Decade. On that point, he considered that, with a little imagination, sources of financing other than the Trust Fund could be found to ensure the implementation of the Programme. Lastly, he referred to two seminars, in one of which Mr. Rechetov and Mr. Valencia Rodriguez had taken part in September 1996; he himself was to take part in the other, which was to be held in May 1997.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued) (Minutes of the meeting of the Bureau of the Committee, document without a symbol distributed at the meeting in English only; CERD/C/50/Misc.9/Rev.2, distributed at the meeting in English only)

114. The CHAIRMAN, introducing the recommendations that the Bureau of the Committee had adopted at its meeting on 19 March 1997 concerning the timetable for the fifty-first session, informed members that there had been new developments since that meeting. In view of the fact that the periodic report of Burundi had just reached the Committee, he asked whether it should be considered under agenda item 4. Since the Committee had received a delegation from Rwanda, he also wondered whether the report of Rwanda should be considered at the next session. He pointed out that time must be found for the draft concluding observations whose adoption had been postponed. He

therefore wondered whether it was necessary to devote more than four meetings to the adoption of the Committee's concluding observations at the next session. Since the timetable was very full, he proposed that the consideration of the reports of Burundi and Rwanda should not be included.

115. Mr. GARVALOV said that he was in favour of the Committee considering fewer reports so as to have the necessary time for serious in-depth consideration of the reports of States parties.

116. Mrs. SADIQ ALI shared Mr. Garvalov's opinion. However, she thought that the members of the Committee and country representatives should exercise greater discipline. Too many members asked questions following the country rapporteur's statement.

117. The CHAIRMAN considered that in most cases the members of the Committee had shown restraint.

118. Mr. de GOUTTES recalled in that regard that Mr. Aboul-Nasr had proposed the abolition of the country rapporteur system so that each expert could express himself freely. With reference to Rwanda, while he agreed that it was no longer possible to keep that country on list 2 (countries whose reports were overdue), he did feel that it should be kept on list 3 (countries covered by the urgent procedure - agenda item 4) on account of the situation there. As to Burundi, if it could not be kept on list 3, it should be included in list 1 since it had submitted a periodic report. He could hardly envisage acting as country rapporteur for Burundi since he had followed the situation in that country as rapporteur for several sessions under agenda item 4.

119. The CHAIRMAN reminded members of the Committee that if Rwanda remained on list 3, a representative of that State would have to be invited to attend the Committee's session; that procedure would take time.

120. Mr. RECHETOV considered that, even though the Committee had been unable to adopt concluding observations on two countries, the current session had made history. Many States which had not submitted reports for a long time had done so and had even sent high-level delegations. It would no longer be easy for certain States which had not submitted reports to remain in the background, as in the case of Estonia, for example, which did not appear on the list of countries that should have submitted an initial report at least five years previously (CERD/C/50/Misc.9/Rev.2). All States in that situation should be included in that list so as to oblige them to cooperate with the Committee.

The meeting rose at 1.05 p.m.